



IPW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Toyohide NAGARE et al.

Group Art Unit: 3634

Application No.: 10/528,574

Examiner: R. BLOODGOOD

Filed: March 21, 2005

Docket No.: 122620

For: SHEET SHUTTER DEVICE

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the March 30, 2007 Election of Species Requirement, Applicants provisionally elect Species I, Figures 1-9. Applicants submit that claims 1-20 read on elected Species I. This election is made with traverse.

Applicants respectfully submit that there exists *a priori* unity of invention with respect to each of the species because the Office Action has failed to establish that each and every common element disclosed in each of the species is known in the prior art. In other words, the Office Action cannot establish that each of the species lack unity with each other species (i.e., why there is no single general inventive concept) without first conducting a search. The Office Action does not establish what is known in the prior art but only sets forth differences in the species. Just because there are differences in the species does not mean that there is no single general inventive concept.

Thus, for the present application, a lack of unity of invention may only be determined *a posteriori*, or in other words, after a search of the prior art has been conducted and it is

established that all the common elements of the species are known. *See* ISPE 10.07 and 10.08. The Office Action does not establish that each and every common element is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus an Election of Species Requirement at this time is improper.

Accordingly, it is respectfully requested that the Election of Species Requirement be withdrawn.

Respectfully submitted,



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